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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. |
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| 08/828,802 | 03/27/97 | PARK | B T4664 |

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EXAMINER

CHARLES, M

ART UNIT PAPER NUMBER

3622

3681

DATE MAILED:

06/12/98

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

08/828,802

Applicant(s)

Park

Examiner

Marcus Charles

Group Art Unit

3622



☒ Responsive to communication(s) filed on Mar 27, 1997

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire three month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-37 is/are pending in the application.

Of the above, claim(s) 5-10, 15-18, 24-28, and 36 is/are withdrawn from consideration.

☒ Claim(s) 29-31 is/are allowed.

☒ Claim(s) 1-4, 13, 14, 19-23, 32-35, and 37 is/are rejected.

☒ Claim(s) 11 and 12 is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 2, 3

☐ Interview Summary, PTO-413

☒ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit: 3622

Election/Restriction

1. This application contains claims directed to the following patentably distinct species of the claimed invention :

| <u>Species</u> | <u>Figures</u> |
|----------------|----------------|
| 1 | 1 |
| 2 | 2 |
| 3 | 3 |
| 4 | 5 |

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claim 1 appears to be generic.

Applicant is advised that a response to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Art Unit: 3622

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

2. During a telephone conversation with Karl R. Cannon on 6/01/98 a provisional election was made without traverse to prosecute the invention of **Species 2** (fig. 2, 2A and 2B), **claims 1-4 and 11-14, 19-23, 29-35 and 37**. Affirmation of this election must be made by applicant in responding to this Office action. **Claims 5-10, 15-18, 24-28 and 36** are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Art Unit: 3622

DETAILED ACTION

This is the first office action relating to application Serial No.08/828,802 filed on 03/27/97

Claims 1-4, 11-14, 19-23, 29-35 and 37 are currently pending.

Drawings

3. This application has been filed with informal drawings which are acceptable for examination purposes only. Formal drawings will be required when the application is allowed.

Claim Rejections - 35 USC § 112

4. Claims 3, 19-21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 3,19,20 and 21 recites the limitation "connecting arm " in lines 2, 3, 21 and 2, respectively. There is insufficient antecedent basis for this limitation in the claim.

Art Unit: 3622

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-4, 13-14, 19-20, 23, 32, 34-35 and 37 is rejected under 35 U.S.C. 102(b) as being anticipated by Wildhaber('647). Wildhaber discloses a transmission device comprising a first rotational member (33), a first translational member (25), a connecting means (139) for connecting the first rotational and first translational members such that the movement of either the rotational or the translational members causes movement of the other, wherein a portion of the connecting means is pivotally connected to the first rotational member at a first radial attachment point (35) away from the center of rotation (34). Wildhaber further discloses an adjusting means (124) with means for continuously varying the location of the first radial attachment point (fig. 4) with respect to the first rotational member (33) without varying the location of the first radial point (not labeled) relative to the first translational member to thereby change a first ratio of movement to a second ratio of movement.

Regarding claims 3-4, Wildhaber discloses that the connecting means is moveable connected to the first rotational member via a moveable portion (fig. 4), wherein the first

Art Unit: 3622

rotational member includes a perimeter (121, fig.4) defining an interior area in which comprises an opening.

In claim 19, Wildhaber discloses a lengthening means (37) for varying the length of the connecting means.

Regarding claim 20, it is apparent from fig.1 that the slide (24) comprises a reference member which is the datum point by which the proximal and distal positions of the linear movement of force transmitting member (25) can be defined.

In claims 32, 34-35 and 37, Wildhaber discloses the present invention as described in paragraph 6 above.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 21 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wildhaber in view of Waterman('539). Wildhaber discloses the present invention except for the lengthening means of the connecting arm comprising a male-threaded cylindrical member threadably engaged within a female-thread sleeve. Waterman discloses a lengthening means of the connecting arm (fig.1) comprising a male-thread cylindrical member threadably engaged within a female-threaded sleeve (27), wherein the male-threaded cylindrical member having a longitudinal axis and being rotatable with respect to the female-threaded sleeve in order to

Art Unit: 3622

increase or decrease the length of the connecting arm. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide the Wildhaber device with a lengthening means as shown by Waterman in order to increase or decrease the length of the connecting arm.

9. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wildhaber in view of Galvin('448). Wildhaber discloses the present invention except for the translational member comprising a piston member slidably disposed within an engine cylinder. Galvin discloses a translational member (fig.3) comprising a piston member (2) slidably disposed within an engine cylinder (1) in order to constrain the movement of the translational member to move along a straight path (col.1, lines 59-64). Therefore, it would have been obvious to one of ordinary skill in the art to modify the Wildhaber device such that the translational member is a piston slidably disposed within an engine cylinder in view of Galvin in order to constrain the movement of the translational member to move along a straight path.

Allowable Subject Matter

10. Claims 11 and 12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

11. Claims 29 -31 are allowed.

Art Unit: 3622

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Maust('997) discloses a transmission device comprising a rotational member having an adjusting means for varying the location of the first radial attachment point of a connecting arm during rotation. Budlong('793) discloses an adjustable crank having a rotational member with an adjusting means, an opening in the rotational member and translational member. Nittka('984) discloses a transmission system comprising a rotational member with an adjusting means for varying the radial distance attachment point of a connecting arm, and a translational member.

Art Unit: 3622

FACSIMILE TRANSMISSION

Submission of your response by facsimile transmission is encouraged. Group 3600's facsimile number is (703) 305-3597. Recognizing the fact that reducing cycle time in the processing and examination of patent applications will effectively increase a patent's term, it is to your benefit to submit responses by facsimile transmission whenever permissible. Such submission will place the response directly in our examining group's hands and will eliminate Post Office processing and delivery time as well as the PTO's mail room processing and delivery time. For a complete list of correspondence not permitted by facsimile transmission, see MPEP 502.01. In general, most responses and/or amendments not requiring a fee, as well as those requiring a fee but charging such fee to a deposit account, can be submitted by facsimile transmission. Responses requiring a fee which applicant is paying by check should not be submitting by facsimile transmission separately from the check.

Responses submitted by facsimile transmission should include a Certificate of Transmission (MPEP 512). The following is an example of the format the certification might take:

I hereby certify that this correspondence is being facsimile transmitted to the Patent and Trademark Office (Fax No. (703) 305-3597) on _____

(Date)

Typed or printed name of person signing this certificate:

(Signature)

If your response is submitted by facsimile transmission, you are hereby reminded that the original should be retained as evidence of authenticity (37 CFR 1.4 and MPEP 502.02). Please do not separately mail the original or another copy unless required by the Patent and Trademark Office. Submission of the original response or a follow-up copy of the response after your response has been transmitted by facsimile will only cause further unnecessary delays in the processing of your application; duplicate responses where fees are charged to a deposit account may result in those fees being charged twice.

Art Unit: 3622

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marcus Charles whose telephone number is (703) 305-6877. The examiner can normally be reached on Monday - Friday from 8:00 am - 5:00 pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Marmor, can be reached on (703) 308-0830. The fax phone number for this Group is (703) 305-3597.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-2168.



RODNEY H. BONCK
PRIMARY EXAMINER
ART UNIT 3622

mc
Charles /mc
June 08, 1998